

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1554, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-1-12-2 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The following
- 5 definitions apply to this section:
- 6 (1) "Acceptable collateral" means, as to securities lending
- 7 transactions:
- 8 (A) cash;
- 9 (B) cash equivalents;
- 10 (C) letters of credit; and
- 11 (D) direct obligations of, or securities that are fully guaranteed
- 12 as to principal and interest by, the government of the United
- 13 States or any agency of the United States, including the
- 14 Federal National Mortgage Association and the Federal Home
- 15 Loan Mortgage Corporation.
- 16 (2) "Acceptable collateral" means, as to lending foreign securities,

- 1 sovereign debt that is rated:
- 2 (A) A- or higher by Standard & Poor's Corporation;
- 3 (B) A3 or higher by Moody's Investors Service, Inc.;
- 4 (C) A- or higher by Duff and Phelps, Inc.; or
- 5 (D) 1 by the Securities Valuation Office.
- 6 (3) "Acceptable collateral" means, as to repurchase transactions:
- 7 (A) cash;
- 8 (B) cash equivalents; and
- 9 (C) direct obligations of, or securities that are fully guaranteed
- 10 as to principal and interest by, the government of the United
- 11 States or any agency of the United States, including the
- 12 Federal National Mortgage Association and the Federal Home
- 13 Loan Mortgage Corporation.
- 14 (4) "Acceptable collateral" means, as to reverse repurchase
- 15 transactions:
- 16 (A) cash; and
- 17 (B) cash equivalents.
- 18 (5) "Admitted assets" means assets permitted to be reported as
- 19 admitted assets on the statutory financial statement of the life
- 20 insurance company most recently required to be filed with the
- 21 commissioner.
- 22 (6) "Business entity" means:
- 23 (A) a sole proprietorship;
- 24 (B) a corporation;
- 25 (C) a limited liability company;
- 26 (D) an association;
- 27 (E) a partnership;
- 28 (F) a joint stock company;
- 29 (G) a joint venture;
- 30 (H) a mutual fund;
- 31 (I) a trust;
- 32 (J) a joint tenancy; or
- 33 (K) other, similar form of business organization;
- 34 whether organized for-profit or not-for-profit.
- 35 (7) "Cash" means any of the following:
- 36 (A) United States denominated paper currency and coins.
- 37 (B) Negotiable money orders and checks.
- 38 (C) Funds held in any time or demand deposit in any

- 1 depository institution, the deposits of which are insured by the
2 Federal Deposit Insurance Corporation.
- 3 (8) "Cash equivalent" means any of the following:
- 4 (A) A certificate of deposit issued by a depository institution,
5 the deposits of which are insured by the Federal Deposit
6 Insurance Corporation.
- 7 (B) A banker's acceptance issued by a depository institution,
8 the deposits of which are insured by the Federal Deposit
9 Insurance Corporation.
- 10 (C) A government money market mutual fund.
- 11 (D) A class one money market mutual fund.
- 12 (9) "Class one money market mutual fund" means a money
13 market mutual fund that at all times qualifies for investment
14 pursuant to the "Purposes and Procedures of the Securities
15 Valuation Office" or any successor publication either using the
16 bond class one reserve factor or because it is exempt from asset
17 valuation reserve requirements.
- 18 (10) "Dollar roll transaction" means two (2) simultaneous
19 transactions that have settlement dates not more than ninety-six
20 (96) days apart and that meet the following description:
- 21 (A) In one (1) transaction, a life insurance company sells to a
22 business entity one (1) or both of the following:
- 23 (i) Asset-backed securities that are issued, assumed, or
24 guaranteed by the Government National Mortgage
25 Association, the Federal National Mortgage Association, or
26 the Federal Home Loan Mortgage Corporation or the
27 successor of an entity referred to in this item.
- 28 (ii) Other asset-backed securities referred to in Section 106
29 of Title I of the Secondary Mortgage Market Enhancement
30 Act of 1984 (15 U.S.C. 77r-1), as amended.
- 31 (B) In the other transaction, the life insurance company is
32 obligated to purchase from the same business entity securities
33 that are substantially similar to the securities sold under clause
34 (A).
- 35 (11) "Domestic jurisdiction" means:
- 36 (A) the United States;
- 37 (B) any state, territory, or possession of the United States;
- 38 (C) the District of Columbia;

- 1 (D) Canada; or
 2 (E) any province of Canada.
- 3 (12) "Earnings available for fixed charges" means income, after
 4 deducting:
 5 (A) operating and maintenance expenses other than expenses
 6 that are fixed charges;
 7 (B) taxes other than federal and state income taxes;
 8 (C) depreciation; and
 9 (D) depletion;
 10 but excluding extraordinary nonrecurring items of income or
 11 expense appearing in the regular financial statements of a
 12 business entity.
- 13 (13) "Fixed charges" includes:
 14 (A) interest on funded and unfunded debt;
 15 (B) amortization of debt discount; and
 16 (C) rentals for leased property.
- 17 (14) "Foreign currency" means a currency of a foreign
 18 jurisdiction.
- 19 (15) "Foreign jurisdiction" means a jurisdiction other than a
 20 domestic jurisdiction.
- 21 (16) "Government money market mutual fund" means a money
 22 market mutual fund that at all times:
 23 (A) invests only in:
 24 (i) obligations that are issued, guaranteed, or insured by the
 25 United States; or
 26 (ii) collateralized repurchase agreements composed of
 27 obligations that are issued, guaranteed, or insured by the
 28 United States; and
 29 (B) qualifies for investment without a reserve pursuant to the
 30 "Purposes and Procedures of the Securities Valuation Office"
 31 or any successor publication.
- 32 (17) "Guaranteed or insured," when used in reference to an
 33 obligation acquired under this section, means that the guarantor
 34 or insurer has agreed to:
 35 (A) perform or insure the obligation of the obligor or purchase
 36 the obligation; or
 37 (B) be unconditionally obligated, until the obligation is repaid,
 38 to maintain in the obligor a minimum net worth, fixed charge

- 1 coverage, stockholders' equity, or sufficient liquidity to enable
2 the obligor to pay the obligation in full.
- 3 (18) "Investment company" means:
- 4 (A) an investment company as defined in Section 3(a) of the
5 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as
6 amended; or
- 7 (B) a person described in Section 3(c) of the Investment
8 Company Act of 1940.
- 9 (19) "Investment company series" means an investment portfolio
10 of an investment company that is organized as a series company
11 to which assets of the investment company have been specifically
12 allocated.
- 13 (20) "Letter of credit" means a clean, irrevocable, and
14 unconditional letter of credit that is:
- 15 (A) issued or confirmed by; and
16 (B) payable and presentable at;
17 a financial institution on the list of financial institutions meeting
18 the standards for issuing letters of credit under the "Purposes and
19 Procedures of the Securities Valuation Office" or any successor
20 publication. To constitute acceptable collateral for the purposes
21 of paragraph 29 of subsection (b) of this section, a letter of credit
22 must have an expiration date beyond the term of the subject
23 transaction.
- 24 (21) "Market value" means the following:
- 25 (A) As to cash, the amount of the cash.
26 (B) As to cash equivalents, the amount of the cash equivalents.
27 (C) As to letters of credit, the amount of the letters of credit.
28 (D) As to a security as of any date:
- 29 (i) the price for the security on that date obtained from a
30 generally recognized source, or the most recent quotation
31 from such a source; or
32 (ii) if no generally recognized source exists, the price for the
33 security as determined in good faith by the parties to a
34 transaction;
35 plus accrued but unpaid income on the security to the extent
36 not included in the price as of that date.
- 37 (22) "Money market mutual fund" means a mutual fund that
38 meets the conditions of 17 CFR 270.2a-7, under the Investment

- 1 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 2 (23) "Multilateral development bank" means an international
3 development organization of which the United States is a
4 member.
- 5 (24) "Mutual fund" means:
- 6 (A) an investment company; or
- 7 (B) in the case of an investment company that is organized as
8 a series company, an investment company series;
9 that is registered with the United States Securities and Exchange
10 Commission under the Investment Company Act of 1940 (15
11 U.S.C. 80a-1 et seq.).
- 12 (25) "Obligation" means any of the following:
- 13 (A) A bond.
- 14 (B) A note.
- 15 (C) A debenture.
- 16 (D) Any other form of evidence of debt.
- 17 (26) "Person" means:
- 18 (A) an individual;
- 19 (B) a business entity;
- 20 (C) a multilateral development bank; or
- 21 (D) a government or quasi-governmental body, such as a
22 political subdivision or a government sponsored enterprise.
- 23 (27) "Repurchase transaction" means a transaction in which a life
24 insurance company purchases securities from a business entity
25 that is obligated to repurchase the purchased securities or
26 equivalent securities from the life insurance company at a
27 specified price, either within a specified period of time or upon
28 demand.
- 29 (28) "Reverse repurchase transaction" means a transaction in
30 which a life insurance company sells securities to a business
31 entity and is obligated to repurchase the sold securities or
32 equivalent securities from the business entity at a specified price,
33 either within a specified period of time or upon demand.
- 34 (29) "Securities lending transaction" means a transaction in which
35 securities are loaned by a life insurance company to a business
36 entity that is obligated to return the loaned securities or equivalent
37 securities to the life insurance company, either within a specified
38 period of time or upon demand.

- 1 (30) "Securities Valuation Office" refers to:
- 2 (A) the Securities Valuation Office of the National Association
- 3 of Insurance Commissioners; or
- 4 (B) any successor of the office referred to in Clause (A)
- 5 established by the National Association of Insurance
- 6 Commissioners.
- 7 (31) "Series company" means an investment company that is
- 8 organized as a series company (as defined in Rule 18f-2(a)
- 9 adopted under the Investment Company Act of 1940 (15 U.S.C.
- 10 80a-1 et seq.), as amended).
- 11 (32) "Supported", when used in reference to an obligation, by
- 12 whomever issued or made, means that:
- 13 (a) repayment of the obligation by:
- 14 (i) a domestic jurisdiction or by an administration, agency,
- 15 authority, or instrumentality of a domestic jurisdiction; or
- 16 (ii) a business entity;
- 17 as the case may be, is secured by real or personal property of
- 18 value at least equal to the principal amount of the obligation
- 19 by means of mortgage, assignment of vendor's interest in one
- 20 (1) or more conditional sales contracts, other title retention
- 21 device, or by means of other security interest in such property
- 22 for the benefit of the holder of the obligation; and
- 23 (b) the:
- 24 (i) domestic jurisdiction or administration, agency, authority,
- 25 or instrumentality of the domestic jurisdiction; or
- 26 (ii) business entity;
- 27 as the case may be, has entered into a firm agreement to rent
- 28 or use the property pursuant to which it is obligated to pay
- 29 money as rental or for the use of such property in amounts and
- 30 at times which shall be sufficient, after provision for taxes
- 31 upon and other expenses of use of the property, to repay in full
- 32 the obligation with interest and when such agreement and the
- 33 money obligated to be paid thereunder are assigned, pledged,
- 34 or secured for the benefit of the holder of the obligation.
- 35 However, where the security for the repayment of the
- 36 obligation consists of a first mortgage lien or deed of trust on
- 37 a fee interest in real property, the obligation may provide for
- 38 the amortization, during the initial, fixed period of the lease or

1 contract, of less than one hundred percent (100%) of the
 2 obligation if there is pledged or assigned, as additional
 3 security for the obligation, sufficient rentals payable under the
 4 lease, or of contract payments, to secure the amortized
 5 obligation payments required during the initial, fixed period of
 6 the lease or contract, including but not limited to payments of
 7 principal, interest, and taxes other than the income taxes of the
 8 borrower, and if there is to be left unamortized at the end of
 9 such period an amount not greater than the original appraised
 10 value of the land only, exclusive of all improvements, as
 11 prescribed by law.

12 (b) Investments of domestic life insurance companies at the time
 13 they are made shall conform to the following categories, conditions,
 14 limitations, and standards:

15 1. Obligations of a domestic jurisdiction or of any administration,
 16 agency, authority, or instrumentality of a domestic jurisdiction.

17 2. Obligations guaranteed, supported, or insured as to principal and
 18 interest by a domestic jurisdiction or by an administration, agency,
 19 authority, or instrumentality of a domestic jurisdiction.

20 3. Obligations issued under or pursuant to the Farm Credit Act of
 21 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31,
 22 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through
 23 1449) as in effect on December 31, 1990, interest bearing obligations
 24 of the FSLIC Resolution Fund or shares of any institution whose
 25 deposits are insured by the Savings Association Insurance Fund of the
 26 Federal Deposit Insurance Corporation to the extent that such shares
 27 are insured, obligations issued or guaranteed by a multilateral
 28 development bank, and obligations issued or guaranteed by the African
 29 Development Bank.

30 4. Obligations issued, guaranteed, or insured as to principal and
 31 interest by a city, county, drainage district, road district, school district,
 32 tax district, town, township, village, or other civil administration,
 33 agency, authority, instrumentality, or subdivision of a domestic
 34 jurisdiction, providing such obligations are authorized by law and are:

35 (a) direct and general obligations of the issuing, guaranteeing or
 36 insuring governmental unit, administration, agency, authority,
 37 district, subdivision, or instrumentality;

38 (b) payable from designated revenues pledged to the payment of

1 the principal and interest thereof; or

2 (c) improvement bonds or other obligations constituting a first
 3 lien, except for tax liens, against all of the real estate within the
 4 improvement district or on that part of such real estate not
 5 discharged from such lien through payment of the assessment.
 6 The area to which such improvement bonds or other obligations
 7 relate shall be situated within the limits of a town or city and at
 8 least fifty percent (50%) of the properties within such area shall
 9 be improved with business buildings or residences.

10 5. Loans evidenced by obligations secured by first mortgage liens
 11 on otherwise unencumbered real estate or otherwise unencumbered
 12 leaseholds having at least fifty (50) years of unexpired term, such real
 13 estate, or leaseholds to be located in a domestic jurisdiction. Such loans
 14 shall not exceed eighty percent (80%) of the fair value of the security
 15 determined in a manner satisfactory to the department, except that the
 16 percentage stated may be exceeded if and to the extent such excess is
 17 guaranteed or insured by:

- 18 (a) a domestic jurisdiction or by an administration, agency,
 19 authority, or instrumentality of any domestic jurisdiction; or
- 20 (b) a private mortgage insurance corporation approved by the
 21 department.

22 If improvements constitute a part of the value of the real estate or
 23 leaseholds, such improvements shall be insured against fire for the
 24 benefit of the mortgagee in an amount not less than the difference
 25 between the value of the land and the unpaid balance of the loan.

26 For the purpose of this section, real estate or a leasehold shall not be
 27 deemed to be encumbered by reason of the existence in relation thereto
 28 of:

- 29 (1) liens inferior to the lien securing the loan made by the life
 30 insurance company;
- 31 (2) taxes or assessment liens not delinquent;
- 32 (3) instruments creating or reserving mineral, oil, water or timber
 33 rights, rights-of-way, common or joint driveways, sewers, walls,
 34 or utility connections;
- 35 (4) building restrictions or other restrictive covenants; or
- 36 (5) an unassigned lease reserving rents or profits to the owner.

37 A loan that is authorized by this paragraph remains qualified under this
 38 paragraph notwithstanding any refinancing, modification, or extension

1 of the loan. Investments authorized by this paragraph shall not in the
 2 aggregate exceed forty-five percent (45%) of the life insurance
 3 company's admitted assets.

4 6. Loans evidenced by obligations guaranteed or insured, but only
 5 to the extent guaranteed or insured, by a domestic jurisdiction or by any
 6 agency, administration, authority, or instrumentality of any domestic
 7 jurisdiction, and secured by second or subsequent mortgages or deeds
 8 of trust on real estate or leaseholds, provided the terms of the leasehold
 9 mortgages or deeds of trust shall not exceed four-fifths (4/5) of the
 10 unexpired lease term, including enforceable renewable options
 11 remaining at the time of the loan.

12 7. Real estate contracts involving otherwise unencumbered real
 13 estate situated in a domestic jurisdiction, to be secured by the title to
 14 such real estate, which shall be transferred to the life insurance
 15 company or to a trustee or nominee of its choosing. For statement and
 16 deposit purposes, the value of a contract acquired pursuant to this
 17 paragraph shall be whichever of the following amounts is the least:

- 18 (a) eighty percent (80%) of the contract price of the real estate;
- 19 (b) eighty percent (80%) of the fair value of the real estate at the
 20 time the contract is purchased, such value to be determined in a
 21 manner satisfactory to the department; or
- 22 (c) the amount due under the contract.

23 For the purpose of this paragraph, real estate shall not be deemed
 24 encumbered by reason of the existence in relation thereto of: (1) taxes
 25 or assessment liens not delinquent; (2) instruments creating or
 26 reserving mineral, oil, water or timber rights, rights-of-way, common
 27 or joint driveways, sewers, walls or utility connections; (3) building
 28 restrictions or other restrictive covenants; or (4) an unassigned lease
 29 reserving rents or profits to the owner. Fire insurance upon
 30 improvements constituting a part of the real estate described in the
 31 contract shall be maintained in an amount at least equal to the unpaid
 32 balance due under the contract or the fair value of improvements,
 33 whichever is the lesser.

34 8. Improved or unimproved real property, whether encumbered or
 35 unencumbered, or any interest therein, held directly or evidenced by
 36 joint venture interests, general or limited partnership interests, trust
 37 certificates, or any other instruments, and acquired by the life insurance
 38 company as an investment, which real property, if unimproved, is

1 developed within five (5) years. Real property acquired for investment
2 under this paragraph, whether leased or intended to be developed for
3 commercial or residential purposes or otherwise lawfully held, is
4 subject to the following conditions and limitations:

5 (a) The real estate shall be located in a domestic jurisdiction.

6 (b) The admitted assets of the life insurance company must
7 exceed twenty-five million dollars (\$25,000,000).

8 (c) The life insurance company shall have the right to expend
9 from time to time whatever amount or amounts may be necessary
10 to conform the real estate to the needs and purposes of the lessee
11 and the amount so expended shall be added to and become a part
12 of the investment in such real estate.

13 (d) The value for statement and deposit purposes of an investment
14 under this paragraph shall be reduced annually by amortization of
15 the costs of improvement and development, less land costs, over
16 the expected life of the property, which value and amortization
17 shall for statement and deposit purposes be determined in a
18 manner satisfactory to the commissioner. In determining such
19 value with respect to the calendar years in which an investment
20 begins or ends with respect to a point in time other than the
21 beginning or end of a calendar year, the amortization provided
22 above shall be made on a proportional basis.

23 (e) Fire insurance shall be maintained in an amount at least equal
24 to the insurable value of the improvements or the difference
25 between the value of the land and the value at which such real
26 estate is carried for statement and deposit purposes, whichever
27 amount is smaller.

28 (f) Real estate acquired in any of the manners described and
29 sanctioned under section 3 of this chapter, or otherwise lawfully
30 held, except paragraph 5 of that section which specifically relates
31 to the acquisition of real estate under this paragraph, shall not be
32 affected in any respect by this paragraph unless such real estate
33 at or subsequent to its acquisition fulfills the conditions and
34 limitations of this paragraph, and is declared by the life insurance
35 company in a writing filed with the department to be an
36 investment under this paragraph. The value of real estate acquired
37 under section 3 of this chapter, or otherwise lawfully held, and
38 invested under this paragraph shall be initially that at which it was

1 carried for statement and deposit purposes under that section.

2 (g) Neither the cost of each parcel of improved real property nor
 3 the aggregate cost of all unimproved real property acquired under
 4 the authority of this paragraph may exceed two percent (2%) of
 5 the life insurance company's admitted assets. For purposes of this
 6 paragraph, "unimproved real property" means land containing no
 7 structures intended for commercial, industrial, or residential
 8 occupancy, and "improved real property" consists of all land
 9 containing any such structure. When applying the limitations of
 10 subparagraph (d) of this paragraph, unimproved real property
 11 becomes improved real property as soon as construction of any
 12 commercial, industrial, or residential structure is so completed as
 13 to be capable of producing income. In the event the real property
 14 is mortgaged with recourse to the life insurance company or the
 15 life insurance company commences a plan of construction upon
 16 real property at its own expense or guarantees payment of
 17 borrowed funds to be used for such construction, the total project
 18 cost of the real property will be used in applying the two percent
 19 (2%) test. Further, no more than ten percent (10%) of the life
 20 insurance company's admitted assets may be invested in all
 21 property, measured by the property value for statement and
 22 deposit purposes as defined in this paragraph, held under this
 23 paragraph at the same time.

24 9. Deposits of cash in a depository institution, the deposits of which
 25 are insured by the Federal Deposit Insurance Corporation, or
 26 certificates of deposit issued by a depository institution, the deposits of
 27 which are insured by the Federal Deposit Insurance Corporation.

28 10. Bank and bankers' acceptances and other bills of exchange of
 29 kinds and maturities eligible for purchase or rediscount by federal
 30 reserve banks.

31 11. Obligations that are issued, guaranteed, assumed, or supported
 32 by a business entity organized under the laws of a domestic jurisdiction
 33 and that are rated:

34 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
 35 higher in the case of commercial paper);

36 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
 37 higher in the case of commercial paper);

38 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in

the case of commercial paper); or
 (d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter (1 1/4) instead of one and one-half (1 1/2).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal years immediately preceding the date of purchase earned an average amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years

1 immediately preceding purchase earned an average amount per annum
 2 at least equal to six percent (6%) of the par value of its capital stock
 3 (or, in the case of stock having no par value, of the issued or stated
 4 value of such stock) outstanding at date of purchase, but the conditions
 5 and limitations of this paragraph shall not apply to the special area of
 6 investment to which paragraph 23 of this section pertains.

7 13.(A) Stock or shares of any mutual fund that:

8 (a) has been in existence for a period of at least five (5) years
 9 immediately preceding the date of purchase, has assets of not less
 10 than twenty-five million dollars (\$25,000,000) at the date of
 11 purchase, and invests substantially all of its assets in investments
 12 permitted under this section; or

13 (b) is a class one money market mutual fund or a class one bond
 14 mutual fund.

15 Investments authorized by this paragraph 13(A) in mutual funds having
 16 the same or affiliated investment advisers shall not at any one (1) time
 17 exceed in the aggregate ten percent (10%) of the life insurance
 18 company's admitted assets. The limitations contained in paragraph 22
 19 of this subsection apply to investments in the types of mutual funds
 20 described in subparagraph (a). For the purposes of this paragraph,
 21 "class one bond mutual fund" means a mutual fund that at all times
 22 qualifies for investment using the bond class one reserve factor under
 23 the "Purposes and Procedures of the Securities Valuation Office" or
 24 any successor publication.

25 The aggregate amount of investments under this paragraph may be
 26 limited by the commissioner if the commissioner finds that investments
 27 under this paragraph may render the operation of the life insurance
 28 company hazardous to the company's policyholders or creditors or to
 29 the general public.

30 14. Loans upon the pledge of any of the investments described in
 31 this section other than real estate and those qualifying solely under
 32 paragraph 20 of this subsection, but the amount of such a loan shall not
 33 exceed seventy-five percent (75%) of the value of the investment
 34 pledged.

35 15. Real estate acquired or otherwise lawfully held under the
 36 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
 37 which real estate as an investment shall also include the value of
 38 improvements or betterments made thereon subsequent to its

1 acquisition. The value of such real estate for deposit and statement
2 purposes is to be determined in a manner satisfactory to the
3 department.

4 15.(A) Tangible personal property, equipment trust obligations, or
5 other instruments evidencing an ownership interest or other interest in
6 tangible personal property when the life insurance company purchasing
7 such property has admitted assets in excess of twenty-five million
8 dollars (\$25,000,000), and where there is a right to receive determined
9 portions of rental, purchase, or other fixed obligatory payments for the
10 use of such personal property from a corporation whose obligations
11 would be eligible for investment under the provisions of paragraph 11
12 of this subsection, provided that the aggregate of such payments
13 together with the estimated salvage value of such property at the end
14 of its minimum useful life, to be determined in a manner acceptable to
15 the insurance commissioner, and the estimated tax benefits to the
16 insurer resulting from ownership of such property, is adequate to return
17 the cost of the investment in such property, and provided further, that
18 each net investment in tangible personal property for which any single
19 private corporation is obligated to pay rental, purchase, or other
20 obligatory payments thereon does not exceed one-half of one percent
21 (1/2%) of the life insurance company's admitted assets, and the
22 aggregate net investments made under the provisions of this paragraph
23 do not exceed five percent (5%) of the life insurance company's
24 admitted assets.

25 16. Loans to policyholders of the life insurance company in amounts
26 not exceeding in any case the reserve value of the policy at the time the
27 loan is made.

28 17. A life insurance company doing business in a foreign
29 jurisdiction may, if permitted or required by the laws of such
30 jurisdiction, invest funds equal to its obligations in such jurisdiction in
31 investments legal for life insurance companies domiciled in such
32 jurisdiction or doing business therein as alien companies.

33 17.(A) Investments in (i) obligations issued, guaranteed, assumed,
34 or supported by a foreign jurisdiction or by a business entity organized
35 under the laws of a foreign jurisdiction and (ii) preferred stock and
36 common stock issued by any such business entity, if the obligations of
37 such foreign jurisdiction or business entity, as appropriate, are rated:

38 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or

1 higher in the case of commercial paper);

2 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
3 higher in the case of commercial paper);

4 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
5 the case of commercial paper); or

6 (d) 1 or 2 by the Securities Valuation Office.

7 If the obligations issued by a business entity organized under the laws
8 of a foreign jurisdiction have not received a rating, investments may
9 nevertheless be made under this paragraph in such obligations and in
10 the preferred and common stock of the business entity if the earnings
11 available for fixed charges of the business entity for a period of five (5)
12 fiscal years preceding the date of purchase have averaged at least three
13 (3) times its average fixed charges applicable to such period, and if
14 during either of the last two (2) years of such period, the earnings
15 available for fixed charges were at least three (3) times its fixed
16 charges for such year. Investments authorized by this paragraph in
17 a single foreign jurisdiction shall not exceed ten percent (10%) of the
18 life insurance company's admitted assets. Subject to section 2.2(g) of
19 this chapter, investments authorized by this paragraph denominated in
20 foreign currencies shall not in the aggregate exceed ten percent (10%)
21 of a life insurance company's admitted assets, and investments in any
22 one (1) foreign currency shall not exceed five percent (5%) of the life
23 insurance company's admitted assets. Investments authorized by this
24 paragraph and paragraph 17(B) shall not in the aggregate exceed
25 twenty percent (20%) of the life insurance company's admitted assets.
26 This paragraph in no way limits or restricts investments which are
27 otherwise specifically eligible for deposit under this section.

28 17.(B) Investments in:

29 (a) obligations issued, guaranteed, or assumed by a foreign
30 jurisdiction or by a business entity organized under the laws of a
31 foreign jurisdiction; and

32 (b) preferred stock and common stock issued by a business entity
33 organized under the laws of a foreign jurisdiction;

34 which investments are not eligible for investment under paragraph
35 17.(A).

36 Investments authorized by this paragraph 17(B) shall not in the
37 aggregate exceed five percent (5%) of the life insurance company's
38 admitted assets. Subject to section 2.2(g) of this chapter, if investments

1 authorized by this paragraph 17(B) are denominated in a foreign
 2 currency, the investments shall not, as to such currency, exceed two
 3 percent (2%) of the life insurance company's admitted assets.
 4 Investments authorized by this paragraph 17(B) in any one (1) foreign
 5 jurisdiction shall not exceed two percent (2%) of the life insurance
 6 company's admitted assets.

7 Investments authorized by paragraph 17(A) of this subsection and
 8 this paragraph 17(B) shall not in the aggregate exceed twenty percent
 9 (20%) of the life insurance company's admitted assets.

10 18. To protect itself against loss, a company may in good faith
 11 receive in payment of or as security for debts due or to become due,
 12 investments or property which do not conform to the categories,
 13 conditions, limitations, and standards set out above.

14 19. A life insurance company may purchase for its own benefit any
 15 of its outstanding annuity or insurance contracts or other obligations
 16 and the claims of holders thereof.

17 20. A life insurance company may make investments although not
 18 conforming to the categories, conditions, limitations, and standards
 19 contained in paragraphs 1 through 11, 12 through 19, and 29 through
 20 30.(A) of this subsection, but limited in aggregate amount to the lesser
 21 of:

- 22 (a) ten percent (10%) of the company's admitted assets; or
- 23 (b) the aggregate of the company's capital, surplus, and
- 24 contingency reserves reported on the statutory financial statement
- 25 of the insurer most recently required to be filed with the
- 26 commissioner.

27 This paragraph 20 does not apply to investments authorized by
 28 paragraph 11.(A) of this subsection.

29 20.(A) Investments under paragraphs 1 through 20 and paragraphs
 30 29 through 30.(A) of this subsection are subject to the general
 31 conditions, limitations, and standards contained in paragraphs 21
 32 through 28 of this subsection.

33 21. Investments in obligations (other than real estate mortgage
 34 indebtedness) and capital stock of, and in real estate and tangible
 35 personal property leased to, a single corporation, shall not exceed two
 36 percent (2%) of the life insurance company's admitted assets, taking
 37 into account the provisions of section 2.2(h) of this chapter. The
 38 conditions and limitations of this paragraph shall not apply to

investments under paragraph 13(A) of this subsection or the special area of investment to which paragraph 23 of this subsection pertains.

22. Investments in:

(a) preferred stock; and

(b) common stock;

shall not, in the aggregate, exceed twenty percent (20%) of the life insurance company's admitted assets, exclusive of assets held in segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1.

These limitations shall not apply to investments for the special purposes described in paragraph 23 of this subsection nor to investments in connection with segregated accounts provided for in class 1(c) of IC 27-1-5-1.

23. Limitations defined in paragraphs 13, 20, 21, 22, and 26 of this subsection upon the right of a life insurance company to invest in obligations, ~~and~~ capital stock, **and other securities of corporations a company** shall be inapplicable when, within ~~IC 27-2-9,~~ **IC 27-1-23-2.6**, the result of such investment, whether in one (1) or more transactions, is to effect, between a life insurance company and another company, a relationship of primary and subsidiary companies, or to enlarge a life insurance company's investment in its subsidiary insurance company. However, ~~except as otherwise provided in IC 27-2-9-3(e),~~ the total of a life insurance company's investments in a company or companies to which it stands in the relation of primary company shall not at any time exceed ten percent (10%) of its admitted assets. In the event that a primary and subsidiary relationship ceases to exist between a life insurance company and another company, the life insurance company shall have until December 31 of the succeeding calendar year and such additional period of time as the commissioner may determine within which to conform its investments in stocks and securities of such other company to the conditions and limitations defined in this section, exclusive of this paragraph.

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

25. No life insurance company shall subscribe to or participate in any syndicate or similar underwriting of the purchase or sale of

1 securities or property or enter into any transaction for such purchase or
 2 sale on account of said company, jointly with any other corporation,
 3 firm, or person, or enter into any agreement to withhold from sale any
 4 of its securities or property, but the disposition of its assets shall at all
 5 times be within its control. Nothing contained in this paragraph shall
 6 be construed to invalidate or prohibit an agreement by two (2) or more
 7 companies to join and share in the purchase of investments for bona
 8 fide investment purposes.

9 26. No life insurance company may invest in the stocks or
 10 obligations, except investments under paragraphs 9 and 10 of this
 11 subsection, of any corporation in which an officer of such life insurance
 12 company is either an officer or director. However, this limitation shall
 13 not apply with respect to such investments in:

14 (a) a corporation which is a subsidiary or affiliate of such life
 15 insurance company; or

16 (b) a trade association, provided such investment meets the
 17 requirements of paragraph 5 of this subsection.

18 27. Except for the purpose of mutualization provided for in section
 19 23 of this chapter, or for the purpose of retirement of outstanding
 20 shares of capital stock pursuant to amendment of its articles of
 21 incorporation, or in connection with a plan approved by the
 22 commissioner for purchase of such shares by the life insurance
 23 company's officers, employees, or agents, no life insurance company
 24 shall invest in its own stock.

25 28. In applying the conditions, limitations, and standards prescribed
 26 in paragraphs 11, 12, and 13 of this subsection to the stocks or
 27 obligations of a corporation which in the seven (7) year period
 28 preceding purchase of such stocks or obligations acquired its property
 29 or a substantial part thereof through consolidation, merger, or purchase,
 30 the earnings of the several predecessors or constituent corporations
 31 shall be consolidated.

32 29. A. Before a life insurance company may engage in securities
 33 lending transactions, repurchase transactions, reverse repurchase
 34 transactions, or dollar roll transactions, the life insurance company's
 35 board of directors must adopt a written plan that includes guidelines
 36 and objectives to be followed, including the following:

37 (1) A description of how cash received will be invested or used
 38 for general corporate purposes of the company.

(2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.

(3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

(1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the company; and

(2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

(i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;

(ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or

(iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

(1) invested:

(A) in accordance with this section 2; and

(B) in a manner that recognizes the liquidity needs of the transaction; or

(2) used by the life insurance company for its general corporate purposes.

1 D. For as long as a transaction under this paragraph remains
 2 outstanding, the life insurance company or its agent or custodian shall
 3 maintain, as to acceptable collateral received in the transaction, either
 4 physically or through book entry systems of the Federal Reserve, the
 5 Depository Trust Company, the Participants Trust Company, or another
 6 securities depository approved by the commissioner:

- 7 (1) possession of the acceptable collateral;
- 8 (2) a perfected security interest in the acceptable collateral; or
- 9 (3) in the case of a jurisdiction outside the United States:
- 10 (A) title to; or
- 11 (B) rights of a secured creditor to;
- 12 the acceptable collateral.

13 E. The limitations set forth in paragraphs 17 and 21 of this
 14 subsection do not apply to transactions under this paragraph 29. For
 15 purposes of calculations made to determine compliance with this
 16 paragraph, no effect may be given to the future obligation of the life
 17 insurance company to:

- 18 (1) resell securities, in the case of a repurchase transaction; or
- 19 (2) repurchase securities, in the case of a reverse repurchase
 20 transaction.

21 F. A life insurance company shall not enter into a transaction under
 22 this paragraph if, as a result of the transaction, and after giving effect
 23 to the transaction:

- 24 (1) the aggregate amount of securities then loaned, sold to, or
 25 purchased from any one (1) business entity under this paragraph
 26 would exceed five percent (5%) of the company's admitted assets
 27 (but in calculating the amount sold to or purchased from a
 28 business entity under repurchase or reverse repurchase
 29 transactions, effect may be given to netting provisions under a
 30 master written agreement); or
- 31 (2) the aggregate amount of all securities then loaned, sold to, or
 32 purchased from all business entities under this paragraph would
 33 exceed forty percent (40%) of the admitted assets of the company
 34 (provided, however, that this limitation does not apply to a reverse
 35 repurchase transaction if the borrowing is used to meet
 36 operational liquidity requirements resulting from an officially
 37 declared catastrophe and is subject to a plan approved by the
 38 commissioner).

1 G. The following collateral requirements apply to all transactions
2 under this paragraph:

3 (1) In a securities lending transaction, the life insurance company
4 must receive acceptable collateral having a market value as of the
5 transaction date at least equal to one hundred two percent (102%)
6 of the market value of the securities loaned by the company in the
7 transaction as of that date. If at any time the market value of the
8 acceptable collateral received from a particular business entity is
9 less than the market value of all securities loaned by the company
10 to that business entity, the business entity shall be obligated to
11 deliver additional acceptable collateral to the company, the
12 market value of which, together with the market value of all
13 acceptable collateral then held in connection with all securities
14 lending transactions with that business entity, equals at least one
15 hundred two percent (102%) of the market value of the loaned
16 securities.

17 (2) In a reverse repurchase transaction, other than a dollar roll
18 transaction, the life insurance company must receive acceptable
19 collateral having a market value as of the transaction date equal
20 to at least ninety-five percent (95%) of the market value of the
21 securities transferred by the company in the transaction as of that
22 date. If at any time the market value of the acceptable collateral
23 received from a particular business entity is less than ninety-five
24 percent (95%) of the market value of all securities transferred by
25 the company to that business entity, the business entity shall be
26 obligated to deliver additional acceptable collateral to the
27 company, the market value of which, together with the market
28 value of all acceptable collateral then held in connection with all
29 reverse repurchase transactions with that business entity, equals
30 at least ninety-five percent (95%) of the market value of the
31 transferred securities.

32 (3) In a dollar roll transaction, the life insurance company must
33 receive cash in an amount at least equal to the market value of the
34 securities transferred by the company in the transaction as of the
35 transaction date.

36 (4) In a repurchase transaction, the life insurance company must
37 receive acceptable collateral having a market value equal to at
38 least one hundred two percent (102%) of the purchase price paid

by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

- (A) sold in a reverse repurchase transaction;
- (B) loaned in a securities lending transaction; or
- (C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or
- (b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

30.(A) A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or interests in trusts or partnerships are rated:

- (a) A- or higher by Standard & Poor's Corporation or Duff and Phelps, Inc.;
- (b) A 3 or higher by Moody's Investor Service, Inc.; or
- (c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

31.A. A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

1 B. The following definitions apply throughout this paragraph:

2 (1) "Affiliate" means, as to any person, another person that,
3 directly or indirectly through one (1) or more intermediaries,
4 controls, is controlled by, or is under common control with the
5 person.

6 (2) "Control" means the possession, directly or indirectly, of the
7 power to direct or cause the direction of the management and
8 policies of a person, whether through the ownership of voting
9 securities, by contract (other than a commercial contract for goods
10 or non-management services), or otherwise, unless the power is
11 the result of an official position with or corporate office held by
12 the person. Control shall be presumed to exist if a person, directly
13 or indirectly, owns, controls, holds with the power to vote or holds
14 proxies representing ten percent (10%) or more of the voting
15 securities of another person. This presumption may be rebutted by
16 a showing that control does not exist in fact. The commissioner
17 may determine, after furnishing all interested persons notice and
18 an opportunity to be heard and making specific findings of fact to
19 support the determination, that control exists in fact,
20 notwithstanding the absence of a presumption to that effect.

21 (3) "Qualified bank" means a national bank, state bank, or trust
22 company that at all times is not less than adequately capitalized
23 as determined by standards adopted by United States banking
24 regulators and that is either regulated by state banking laws or is
25 a member of the Federal Reserve System.

26 C. A life insurer may participate in investment pools qualified under
27 this paragraph that invest only in:

28 (1) obligations that are rated BBB- or higher by Standard & Poor's
29 Corporation (or A-2 or higher in the case of commercial paper),
30 Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
31 higher in the case of commercial paper), BBB- or higher by Duff
32 and Phelps, Inc. (or D-2 or higher in the case of commercial
33 paper), or 1 or 2 by the Securities Valuation Office, and have:

34 (A) a remaining maturity of three hundred ninety-seven (397)
35 days or less or a put that entitles the holder to receive the
36 principal amount of the obligation which put may be exercised
37 through maturity at specified intervals not exceeding three
38 hundred ninety-seven (397) days; or

1 (B) a remaining maturity of three (3) years or less and a
 2 floating interest rate that resets not less frequently than
 3 quarterly on the basis of a current short-term index (for
 4 example, federal funds, prime rate, treasury bills, London
 5 InterBank Offered Rate (LIBOR) or commercial paper) and is
 6 not subject to a maximum limit, if the obligations do not have
 7 an interest rate that varies inversely to market interest rate
 8 changes;

9 (2) government money market mutual funds or class one money
 10 market mutual funds; or

11 (3) securities lending, repurchase, and reverse repurchase and
 12 dollar roll transactions that meet the requirements of paragraph 29
 13 of this subsection and any applicable regulations of the
 14 department;

15 provided that the investment pool shall not acquire investments in any
 16 one (1) business entity that exceed ten percent (10%) of the total assets
 17 of the investment pool.

18 D. For an investment pool to be qualified under this paragraph, the
 19 investment pool shall not:

20 (1) acquire securities issued, assumed, guaranteed, or insured by
 21 the life insurance company or an affiliate of the company; or

22 (2) borrow or incur any indebtedness for borrowed money, except
 23 for securities lending, reverse repurchase, and dollar roll
 24 transactions that meet the requirements of paragraph 29 of this
 25 subsection.

26 E. A life insurance company shall not participate in an investment
 27 pool qualified under this paragraph if, as a result of and after giving
 28 effect to the participation, the aggregate amount of participation then
 29 held by the company in all investment pools under this paragraph and
 30 section 2.4 of this chapter would exceed thirty-five percent (35%) of its
 31 admitted assets.

32 F. For an investment pool to be qualified under this paragraph:

33 (1) the manager of the investment pool must:

34 (A) be organized under the laws of the United States, a state or
 35 territory of the United States, or the District of Columbia, and
 36 designated as the pool manager in a pooling agreement; and

37 (B) be the life insurance company, an affiliated company, a
 38 business entity affiliated with the company, or a qualified bank

- 1 or a business entity registered under the Investment Advisors
- 2 Act of 1940 (15 U.S.C. 80a-I et seq.);
- 3 (2) the pool manager or an entity designated by the pool manager
- 4 of the type set forth in subdivision (1) of this subparagraph F shall
- 5 compile and maintain detailed accounting records setting forth:
- 6 (A) the cash receipts and disbursements reflecting each
- 7 participant's proportionate participation in the investment pool;
- 8 (B) a complete description of all underlying assets of the
- 9 investment pool (including amount, interest rate, maturity date
- 10 (if any) and other appropriate designations); and
- 11 (C) other records which, on a daily basis, allow third parties to
- 12 verify each participant's interest in the investment pool; and
- 13 (3) the assets of the investment pool shall be held in one (1) or
- 14 more accounts, in the name of or on behalf of the investment pool,
- 15 under a custody agreement or trust agreement with a qualified
- 16 bank, which must:
- 17 (A) state and recognize the claims and rights of each
- 18 participant;
- 19 (B) acknowledge that the underlying assets of the investment
- 20 pool are held solely for the benefit of each participant in
- 21 proportion to the aggregate amount of its participation in the
- 22 investment pool; and
- 23 (C) contain an agreement that the underlying assets of the
- 24 investment pool shall not be commingled with the general
- 25 assets of the qualified bank or any other person.
- 26 G. The pooling agreement for an investment pool qualified under
- 27 this paragraph must be in writing and must include the following
- 28 provisions:
- 29 (1) Insurers, subsidiaries, or affiliates of insurers holding interests
- 30 in the pool, or any pension or profit sharing plan of such insurers
- 31 or their subsidiaries or affiliates, shall, at all times, hold one
- 32 hundred percent (100%) of the interests in the investment pool.
- 33 (2) The underlying assets of the investment pool shall not be
- 34 commingled with the general assets of the pool manager or any
- 35 other person.
- 36 (3) In proportion to the aggregate amount of each pool
- 37 participant's interest in the investment pool:
- 38 (A) each participant owns an undivided interest in the

- 1 underlying assets of the investment pool; and
 2 (B) the underlying assets of the investment pool are held solely
 3 for the benefit of each participant.
- 4 (4) A participant or (in the event of the participant's insolvency,
 5 bankruptcy, or receivership) its trustee, receiver, or other
 6 successor-in-interest may withdraw all or any portion of its
 7 participation from the investment pool under the terms of the
 8 pooling agreement.
- 9 (5) Withdrawals may be made on demand without penalty or
 10 other assessment on any business day, but settlement of funds
 11 shall occur within a reasonable and customary period thereafter.
 12 Payments upon withdrawals under this paragraph shall be
 13 calculated in each case net of all then applicable fees and
 14 expenses of the investment pool. The pooling agreement shall
 15 provide for such payments to be made to the participants in one
 16 (1) of the following forms, at the discretion of the pool manager:
- 17 (A) in cash, the then fair market value of the participant's pro
 18 rata share of each underlying asset of the investment pool;
 19 (B) in kind, a pro rata share of each underlying asset; or
 20 (C) in a combination of cash and in kind distributions, a pro
 21 rata share in each underlying asset.
- 22 (6) The records of the investment pool shall be made available for
 23 inspection by the commissioner."

24 Page 4, between lines 12 and 13, begin a new paragraph and insert:

25 "SECTION 3. IC 27-1-23-2.6 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2001]: **Sec. 2.6. (a) As used in this section,**
 28 **"total investment of the insurer" means the total of:**

- 29 **(1) a direct investment by an insurer in an asset; plus**
 30 **(2) the insurer's proportionate share of an investment made**
 31 **by a subsidiary of the insurer.**

32 **The insurer's proportionate share must be determined by**
 33 **multiplying the amount of the subsidiary's investment by the**
 34 **percentage of the insurer's ownership interest in the subsidiary.**

35 **(b) A domestic insurer may, independently or in cooperation**
 36 **with another person, organize or acquire one (1) or more**
 37 **subsidiaries.**

38 **(c) A subsidiary of a domestic insurer may conduct business of**

1 any kind, and the authority to conduct the business is not limited
2 because of the status of the subsidiary as a subsidiary of the
3 domestic insurer.

4 (d) In addition to investments in common stock, preferred stock,
5 debt obligations, and other securities as permitted under IC 27-1,
6 a domestic insurer to which this section applies may also do the
7 following:

8 (1) Invest, in common stock, preferred stock, debt obligations,
9 and other securities of one (1) or more subsidiaries, amounts
10 that do not exceed the lesser of ten percent (10%) of the
11 insurer's assets or fifty percent (50%) of the insurer's surplus
12 as regards policyholders, if, after the investments, the
13 insurer's surplus as regards policyholders is reasonable in
14 relation to the insurer's outstanding liabilities and adequate
15 to the insurer's financial needs. In calculating the amount of
16 investments permitted under this subdivision:

17 (A) investments in domestic or foreign insurance
18 subsidiaries and health maintenance organizations must be
19 excluded; and

20 (B) the following must be included:

21 (i) Total net money or other consideration expended and
22 obligations assumed in the acquisition or formation of a
23 subsidiary, including all organizational expenses and
24 contributions to capital and surplus of the subsidiary,
25 whether or not represented by the purchase of capital
26 stock or issuance of other securities.

27 (ii) All amounts expended in acquiring additional
28 common stock, preferred stock, debt obligations, and
29 other securities and all contributions to the capital or
30 surplus of a subsidiary subsequent to the subsidiary's
31 acquisition or formation.

32 (2) Invest an amount in common stock, preferred stock, debt
33 obligations, and other securities of one (1) or more
34 subsidiaries engaged or organized to engage exclusively in the
35 ownership and management of assets authorized as
36 investments for the insurer, if the subsidiary agrees to limit
37 the subsidiary's investment in an asset so that the investment
38 will not cause the amount of the total investment of the

insurer to exceed the investment limitations described in subdivision (1) or in any applicable provision of IC 27-1.

(3) With the prior approval of the commissioner, invest a greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiaries, if, after the investment, the insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to the insurer's financial needs.

(e) Before a domestic insurer to which this section applies makes an investment described in subsection (d), a determination must be made regarding whether the proposed investment meets the applicable requirements by determining the applicable investment limitations as though the investment has been made, considering:

(1) the currently outstanding principal balance on previous investments in debt obligations; and

(2) the value of previous investments in equity securities as of the day that the investments in equity securities were made; net of any return of capital invested.

(f) If an insurer ceases to control a subsidiary, the insurer shall dispose of any investment in the subsidiary made under this section not more than:

(1) three (3) years from the time of the cessation of control; or

(2) the period determined appropriate by the commissioner; unless the investment meets the requirements for investment under IC 27-1 and the insurer has notified the commissioner that the investment meets the requirements.

SECTION 4. IC 27-2-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This chapter shall be supplemental to supplements IC 27-1. However, the provisions of this chapter shall be controlling in the event there exists any conflict between the provisions of this chapter and the general provisions of IC 27-1.

(b) Subsidiaries established by organization or acquisition prior to September 1, 1981, and otherwise permitted by law at the time of their organization or acquisition shall not be required to meet the filing requirements of IC 27-2-9-3(c) so long as all legal requirements were met at the time of organization or acquisition."

Page 4, line 15, after "(a)" insert "**The term "entity" means:**

- (1) a sole proprietorship;**
 - (2) a corporation;**
 - (3) a limited liability company;**
 - (4) a partnership;**
 - (5) an association;**
 - (6) a joint stock company;**
 - (7) a mutual fund;**
 - (8) a joint venture;**
 - (9) a trust;**
 - (10) a joint tenancy;**
 - (11) an unincorporated organization;**
 - (12) a similar entity; or**
 - (13) a combination of the foregoing acting in concert.**
- (b)".**

Page 4, line 15, strike "a corporation."

Page 4, line 16, delete "or limited liability company," and insert "**an entity of which an insurance company is the beneficial owner (as defined in IC 27-1-23-1(c)) of**".

Page 4, line 17, after "(50%)" insert ".".

Page 4, line 17, strike "of the voting stock of which is owned by an insurance company".

Page 4, line 19, strike "(b)" and insert "**(c)**".

Page 4, line 20, strike "owns" and insert "**is the beneficial owner (as defined in IC 27-1-23-1(c)) of**".

Page 4, line 20, strike "the" and insert "**an entity**".

Page 4, line 21, strike "voting capital stock of another".

Page 4, line 21, delete "corporation and insert "~~corporation~~".

Page 4, line 21, delete "or limited liability".

Page 4, delete lines 22 through 26, begin a new paragraph and insert:

"SECTION 6. IC 27-2-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A ~~domestic insurance company~~ may establish by organization or acquisition of voting stock, a domestic, foreign, or alien subsidiary company to conduct any lawful kind of business permitted by the law under which the subsidiary company is created, if the establishment meets the limitations of this section. Ownership of a subsidiary company

1 permitted by this section constitutes a permitted power of a primary
2 company under IC 27-1-7-2 or any other statute under which the
3 primary company is organized; unless its articles of incorporation
4 prohibit its establishment of subsidiary companies.

5 (b) The primary company, at the time of establishing a subsidiary
6 company, shall possess assets of not less than twenty-five million
7 dollars (\$25,000,000); or combined capital and surplus in the case of
8 a stock company, or surplus in the case of a mutual company, of not
9 less than three million five hundred thousand dollars (\$3,500,000).
10 However, where the primary company is establishing a subsidiary
11 company qualifying under subsection (c)(1), these minimum amounts
12 shall be increased by the aggregate amount of the primary company's
13 investment in all its subsidiary companies qualified under subsection
14 (c)(1), including the one being established.

15 (c) The primary company shall file with the commissioner a
16 certified copy of the resolution of its board of directors approving the
17 establishment of the subsidiary company. If the subsidiary company is
18 authorized to conduct a business, other than the business of making
19 insurance or reinsurance pursuant to a certificate issued by the Indiana
20 insurance commissioner or to a comparable grant of authority by an
21 insurance official or officials in the jurisdiction of the subsidiary
22 company's incorporation, the primary company shall also file with the
23 commissioner a summary description of the business to be carried on
24 by the subsidiary company. The commissioner shall grant approval for
25 such establishment in writing if the commissioner determines that there
26 has been compliance with the conditions and requirements of this
27 section.

28 (d) (b) The department shall have the power to conduct periodic
29 examinations and require reports reflecting the effect of the condition
30 and operation of subsidiary companies on the financial condition of the
31 primary company. A noninsurance subsidiary company is required to
32 annually furnish the department financial statements prepared under
33 generally accepted accounting principles and certified by an
34 independent certified public accountant, and the department is
35 authorized to rely upon such statements. The department may also
36 make any additional examination or require any other reports with
37 respect to any subsidiary company necessary to carry out the
38 department's administration of this section. If any subsidiary company

1 is conducting its business in a manner that would clearly tend to impair
 2 the capital or surplus fund of the primary company or otherwise make
 3 the operation of the primary company financially unsafe, the
 4 department shall have the same powers to act with respect to the
 5 primary company as it would have with respect to any comparable
 6 improper or financially unsafe operation of the primary company under
 7 IC 27-1-3-19.

8 (e) Subsections (e) and (f) apply only to primary companies
 9 authorized to make the kind or kinds of insurance set out in Class I,
 10 enumerated in IC 27-1-5-1 (referred to in these subsections as a "Class
 11 I primary company"; a "primary company"; or the plural of either): A
 12 Class I primary company may invest amounts in excess of the
 13 applicable percentage limitations in IC 27-1-12-2(b)(23) in any
 14 subsidiary company whose business, operated directly or through its
 15 subsidiaries:

16 (1) is devoted entirely to the making of all or any one (1) or more
 17 of the kinds of insurance and reinsurance authorized by the laws
 18 of the state; if the subsidiary company is incorporated under
 19 Indiana law; or the law of a jurisdiction which the commissioner
 20 determines has comparable or more restrictive investment
 21 limitations than Indiana; or

22 (2) is of a nature which the primary company could engage in
 23 directly; other than the making of such insurance or reinsurance.

24 However, investments owned by each subsidiary company qualifying
 25 under subdivision (2) directly or through a chain of subsidiaries, shall
 26 be attributed to the primary company for purposes of determining the
 27 primary company's compliance with the other provisions of
 28 IC 27-1-12-2. Attribution of these investments to the primary company
 29 shall be made on its percentage direct ownership of the subsidiary
 30 company; or the percentage indirect ownership of each other company
 31 in the chain of subsidiaries. Primary company investments in any other
 32 subsidiary company or companies are limited to the applicable
 33 aggregate percentage limitations set out in IC 27-1-12-2(b)(23):

34 (f) In the event a Class I primary company on account of its
 35 investments in subsidiary companies fails at any time to meet the
 36 applicable percentage limitations set out in IC 27-1-12-2(b)(23); as
 37 modified by subsection (e); the commissioner may order the divestiture
 38 of any subsidiary company or order other actions by the primary or

1 subsidiary company so that the total investment by the primary
 2 company does not exceed these limitations: The commissioner may for
 3 any definite or indefinite period permit the continuation of any
 4 subsidiary company without divestiture; with or without any other
 5 required action; if the commissioner determines that continuation will
 6 not tend to impair the capital or surplus fund of the primary company
 7 or make its operation unsafe or that continuation is necessary
 8 considering the financial needs of the primary company.

9 (g) At any time after the relationship of primary and subsidiary
 10 companies has been established; it may be freely terminated by the act
 11 of the primary company in reducing its ownership of voting capital
 12 stock of the subsidiary company to fifty percent (50%) or below of the
 13 total outstanding voting stock of such subsidiary company.

14 (h) In addition to rules adopted under IC 27-1-3-7, the commissioner
 15 may adopt under IC 4-22-2 rules:

16 (1) prescribing the methods; standards; matters; and forms to be
 17 used in making the examinations and reports required by
 18 subsection (d);

19 (2) defining the kinds of conduct by a subsidiary company that
 20 would tend to impair the capital or surplus fund of the primary
 21 company or otherwise make its operations financially unsafe; and

22 (3) prescribing the methods for attributing investment in a
 23 subsidiary company or chain of subsidiaries to a primary
 24 company.

25 SECTION 7. IC 27-2-9-6 IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2001]: Sec. 6. The acquisition by an insurance
 27 company of voting stock of another company, **an entity**, for the
 28 purpose of establishing a primary and subsidiary relationship, shall be

- 1 subject to the limitations and conditions of any investment law
- 2 applicable to the primary company.".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1554 as introduced.)

and when so amended that said bill do pass.

Representative Crooks